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FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAR 19 2021

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

YAZMIN CORTES, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

COMMUNICATIONS TEST DESIGN, INC.,
a Pennsylvania Corporation; and DOES 1
through 20, inclusive;

Defendants.

Case No.

CIV SB 2108718

COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Timely Pay Final Wages;
- (6) Failure to Provide Accurate Itemized Wage Statements;
- (7) Unfair and Unlawful Competition;

PAGA CLAIMS

- (8) Failure to Pay Minimum Wages;
- (9) Failure to Pay Overtime Wages;
- (10) Failure to Provide Meal Periods;
- (11) Failure to Provide Rest Breaks;
- (12) Failure to Timely Pay Wages Each Period;
- (13) Failure to Timely Pay Final Wages; and
- (14) Failure to Provide Accurate Itemized Wage Statements
- (15) Failure to Provide Safe and Healthful Working Conditions

JURY TRIAL DEMANDED

CLASS AND REPRESENTATIVE ACTION (PAGA) COMPLAINT

1 Plaintiff Yazmin Cortes (“Plaintiff”) on behalf of herself, on a representative basis, and
2 on behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against her former employer(s), Defendants
5 Communications Test Design, Inc., a Pennsylvania Corporation, and DOES 1 through 20,
6 inclusive, (collectively, “Defendants”) on behalf of all current and former employees employed
7 by Defendants in California (the “Class” or “Represented Employees”), for California Labor
8 Code violations stemming from Defendants’ failure to pay all wages owed, including minimum,
9 regular, and overtime wages, failure to provide meal periods, failure to provide rest breaks,
10 failure to pay all vested and unused vacation/PTO at the final rate of pay upon separation of
11 employment, failure to reimburse business expenses, failure to timely pay wages, and failure to
12 provide accurate itemized wage statements.

13 2. Plaintiff was employed by Defendants from approximately February 2019
14 through present.

15 3. Plaintiff alleges on information and belief that the Represented Employees were
16 subjected to the same policies, working conditions, and corresponding wage and hour violations
17 to which Plaintiff was subjected during her employment.

18 4. Plaintiff and the Represented Employees were not provided proper minimum,
19 regular, and overtime wages due to Defendants’ failure to accurately record and compensate for
20 all hours worked.

21 5. Also, at all relevant times, Plaintiff and the Represented Employees were denied
22 30-minute off-duty meal periods, as mandated by California law, during their employment with
23 Defendants. As a result of Defendants’ policies and practices, Plaintiff and the Represented
24 Employees were subjected to meal period violations when they were: (1) unable to take meal
25 periods due to workload, (2) forced to take on-duty meal period while under the control of
26 Defendants, (3) forced to take meal periods, if such a meal occurred, after the 5th hour of work,
27 and (4) not provided a mandated second meal period for shifts in excess of 10 hours.

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1 6. Defendants also failed to provide Plaintiff and the Represented Employees with
2 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
3 mandated by California law. Defendants did not schedule rest breaks and the Represented
4 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
5 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the
6 Represented Employees worked in excess of 10 hours in a shift, Defendants failed to authorize
7 and/or permit a third mandated rest break.

8 7. Plaintiff also alleges that she and the Represented Employees were not paid all
9 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
10 within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants
11 engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Represented
12 Employees at the time their employment ended with Defendants, including, but not limited to
13 minimum, regular, and overtime wages, wage premiums, accrued and unused PTO / vacation,
14 among others.

15 8. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
16 statements that fully complied with the requirements of Labor Code § 226(a).

17 9. Plaintiff alleges that Defendants' violations of the wage and hour components of
18 the Labor Code and IWC Wage Orders enabled it to decrease expenses and to increase its level
19 of productivity and profits, thereby allowing Defendants to gain an unfair advantage over its
20 competitors.

21 10. At all material times, Defendants and DOES 1 through 20 were and/or are the
22 Represented Employees' employers or persons acting on behalf of the Represented Employees'
23 employer, within the meaning of California Labor Code § 558, who violated or caused to be
24 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
25 hours and days of work in any Order of the Industrial Welfare Commission and, as such, are
26 subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under
27 California law.

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11. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and monetary relief against Defendants and each of them, on behalf of herself and the Represented Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees, penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 218.6, 221, 223, 226, 226.3, 226.7, 227.3, 256, 510, 512, 558, 1194, 1194.2, and 2802, among possibly other sections inadvertently omitted. Plaintiff also reserves the right to name additional representatives throughout the State of California.

II. JURISDICTION

12. This Court has jurisdiction over the claims for relief of Plaintiff and the Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

III. VENUE

13. Venue as to each Defendant is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendants transact business in San Bernardino County and the unlawful acts alleged herein have a direct effect on Plaintiff and the Represented Employees in San Bernardino County. Furthermore, Defendants employed or employ Plaintiff and Represented Employees in San Bernardino County.

IV. PARTIES

Plaintiff

14. Plaintiff and Class Representative Yazmin Cortes was employed by Defendants from approximately February 2019 through present and performed work for Defendants in San Bernardino County.

Defendants

15. Plaintiff is informed and believes and thereon alleges that Defendant Communication Test Design, Inc. is a Pennsylvania corporation authorized to and doing business in San Bernardino County, California, and is and/or was the legal employer of Plaintiff and the Represented Employees during the applicable statutory periods.

16. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,

1 inclusive, but on information and belief alleges that those Defendants are legally responsible for
2 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
3 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
4 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
5 Defendants when ascertained.

6 **V. CLASS ACTION ALLEGATIONS**

7 17. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
8 alleged herein.

9 18. Plaintiff brings this action on behalf of herself and all others similarly situated as
10 a class action, pursuant to Code of Civil Procedure § 382.

11 19. The relevant time period for this class action is defined as the time period
12 beginning four years prior to the filing of this action until class certification (the "Relevant Time
13 Period").

14 20. The Class, also referred to as the "Represented Employees," that Plaintiff seeks to
15 represent is defined as follows:

16 **California Class**

17 All current and former employees employed by Defendants
18 in the State of California during the Relevant Time Period.

19 21. Plaintiff also seeks to represent the following subclasses:

20 **Meal Break Subclass**

21 All nonexempt Represented Employees who worked a shift
22 in excess of 5 hours during the Relevant Time Period.

23 **Rest Break Subclass**

24 All nonexempt Represented Employees who worked a shift
25 of at least 3.5 hours during the Relevant Time Period.

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Waiting Time Penalties Subclass

All Represented Employees who separated from their employment with Defendants during the period three years before the filing of this action and ending when final judgment is entered.

Wage Statement Penalties Subclass

All Represented Employees during the period one year before the filing of this action and ending when final judgment is entered.

22. Plaintiff reserves the right to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues as appropriate.

23. Plaintiff, as Class Representative, is a member of the class and subclasses that she seeks to represent.

24. This action has been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable from Defendants' personnel and payroll records.

25. **Numerosity:** The potential members of the Class as defined are so numerous that a joinder of all Represented Employees is impracticable. Although the exact number is currently unknown to Plaintiff, this information is easily ascertainable from Defendants' payroll and personnel records.

26. **Commonality:** There are questions of law and fact common to the class which predominate over any questions affecting only individual members of the class, including without limitation:

i. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay wages to Plaintiff and the Represented Employees for all hours worked;

ii. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Represented Employees for hours above 8 and/or 12 per day and/or 40 per week;

iii. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass with one additional hour of wages at the regular rate of pay for each instance when a compliant meal period was not provided;

iv. Whether Defendants violated the California Labor Code and applicable IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass with one additional hour of wages at the regular rate of pay for each instance when a paid rest break was not provided;

v. Whether Defendants violated the California Labor Code by failing to timely pay all wages due upon separation of employment between Defendants and Plaintiff and the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

vi. Whether Defendants violated the California Labor Code by failing to provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized wage statements;

vii. Whether Defendants violated California Business & Professions Code §§ 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest breaks, failure to provide mandated meal periods, failure to pay vested vacation, failure to reimburse business expenses, and failure to timely pay final wages; and

viii. Whether Plaintiff and Represented Employees are entitled to equitable relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

27. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants' ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all wages owed, failure to provide mandated meal periods, failure to provide mandated paid rest breaks, failure to reimburse business expenses, to timely pay final wages, and failure to provide accurate itemized wage statements.

1 28. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
2 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
3 conflict with those of the Class. Class Representative's counsel are competent and experienced in
4 litigating large employment class actions and other complex litigation matters, including cases
5 like this case.

6 29. **Superiority of Class Action.** Class certification is appropriate because a class
7 action is superior to other available means for the fair and efficient adjudication of this
8 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
9 law and fact common to the Class predominate over any questions affecting only individual
10 members of the Class. Each Represented Employee has been damaged and is entitled to
11 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
12 treatment will allow those similarly situated persons to litigate their claims in the manner that is
13 most efficient and economical for the parties and the judicial system.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

17 *(Plaintiff and the Represented Employees Against All Defendants)*

18 30. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 31. Plaintiff and the Represented Employees were not exempt from the requirement
21 to be paid at least the applicable California minimum wage throughout the statutory period for
22 each hour worked.

23 32. Plaintiff and the Represented Employees were not provided proper minimum and
24 regular wages due to Defendants' failure to accurately record and compensate for all hours
25 worked.

26 33. As a result of Defendants' policies or practices described above, Plaintiff, the
27 Represented Employees, and the Rounding Policy Subclass were required to perform off-the-
28 clock work that Defendants either knew or should have known they were performing.

34. Consequently, Defendants violated California Labor Code laws and minimum wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

35. Plaintiff is informed and believes and thereon alleges that Defendants intentionally, willfully, and improperly failed to pay wages to Plaintiff, the Represented Employees, and the Rounding Policy Subclass for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

36. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Represented Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum wages, yet Defendants chose not to pay them in accordance thereto.

37. At all material times, Defendants DOES 1 through 20 were and/or are the employer of Plaintiff and the Represented Employees were persons acting on behalf of said employer(s), within the meaning of California Labor Code § 558, who violated or caused to be violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California Labor Code regulating hours and days of work respectively.

38. During employment of Plaintiff and the Represented Employees, Defendants failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

39. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented Employees have been damaged in amounts to be proven at trial.

40. Plaintiff, on behalf of himself, and the Represented Employees seeks recovery of all unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of suit, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven at trial.

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SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

(Plaintiff and the Represented Employees Against All Defendants)

41. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

42. Plaintiff, the Represented Employees, and the Overtime Subclass were employees of Defendants who did not receive proper protections and benefits of the laws governing payment of overtime wages.

43. Labor Code § 204 requires that the employer timely pay all overtime wages to its employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate of pay for an employee.

44. At all relevant times, Plaintiff and the Represented Employees were required by Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to Defendants' failure to accurately record and compensate for all hours worked, Plaintiff and the Represented Employees did not receive proper overtime compensation.

45. Defendants also failed to properly calculate the regular rate of pay, and corresponding overtime rate and wages, on occasions that Plaintiff and the Overtime Subclass earned multiple rates of pay during the same workweek. Defendants failed to pay proper overtime compensation for hours worked in excess of 8 and/or 12 per day and/or 40 per week to the Overtime Subclass on such occasions.

46. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage Order § 3(A) every pay period with respect to Plaintiff, the Represented Employees, and the Overtime Subclass because Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per week without proper overtime compensation.

1 47. Plaintiff is informed and believes and thereon alleges that Defendants
2 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff, the
3 Represented Employees, and the Overtime Subclass in violation of Labor Code §§ 204, 221-223,
4 510, 1194 and 1197.

5 48. Defendants' conduct was willful, as Defendants knew that Plaintiff, the
6 Represented Employees, and the Overtime Subclass were entitled to be paid proper overtime
7 wages throughout the statutory period, yet Defendants chose not to pay them in accordance
8 thereto.

9 49. At all material times, Defendants DOES 1 through 10 were and/or are the
10 employer of Plaintiff, the Represented Employees, and the Overtime Subclass or were persons
11 acting on behalf of said employer(s), within the meaning of California Labor Code § 558, who
12 violated or caused to be violated Labor Code § 204 and a provision or provisions of Part 2,
13 Chapter 1 of the California Labor Code regulating hours and days of work respectively.

14 50. During the employment of Plaintiff, the Represented Employees, and the
15 Overtime Subclass, Defendants failed to pay them all wages to which they were entitled, thereby
16 receiving an economic benefit.

17 51. As a result of Defendants' wrongful conduct, Plaintiff, the Represented
18 Employees, and the Overtime Subclass have been damaged in amounts to be proven at trial.

19 52. Plaintiff, on behalf of himself, the Represented Employees, and the Overtime
20 Subclass, seeks recovery of all unpaid overtime wages, penalties, interest, attorneys' fees, and
21 costs of suit against Defendants in an amount to be proven at trial.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PROVIDE MEAL PERIODS**

24 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

25 *(Plaintiff and the Meal Break Subclass Against All Defendants)*

26 53. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
27 alleged herein.

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1 54. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants
2 who did not receive proper protections and benefits of the laws governing mandatory meal
3 periods.

4 55. Labor Code § 226.7 requires employers, including Defendants, to provide
5 employees with meal periods as mandated by the Industrial Welfare Commission.

6 56. Labor Code § 512(a), in part, provides that employers, including Defendants, may
7 not employ an employee for a work period of more than five hours per day without providing an
8 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
9 except that if the total work period per day of the employee is no more than six hours, the meal
10 period may be waived by mutual consent of both the employer and the employee. Employers
11 may not employ an employee for a work period more than 10 hours per day without providing
12 the employee with a second meal period of not less than 30 minutes.

13 57. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
14 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
15 pay for each meal period that is missed.

16 58. At all relevant times herein, Plaintiff and the Meal Break Subclass were denied
17 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
18 practices, Plaintiff and the Represented Employees were subjected to meal period violations
19 when they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal
20 period while under the control of Defendants, (3) forced to take meal periods, if such a meal
21 occurred, after the 5th hour of work, and (4) not provided a mandated second meal period for
22 shifts in excess of 10 hours.

23 59. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
24 Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all
25 mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one
26 additional hour of compensation at the regular rate of pay in lieu thereof.

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60. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal Break Subclass all mandated meal periods and failed to pay wage premiums in lieu of mandated meal or rest periods, thereby receiving an economic benefit.

61. On information and belief, Plaintiff and the Meal Break Subclass did not voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not voluntarily agreed to, were a condition of employment, or were a part of a contract of an unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass to take meal periods in accordance with California law.

62. By their failure to provide Plaintiff and the Meal Break Subclass with meal periods as required by California law, and failing to pay one hour of additional wages in lieu of each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at the employee's regular rate of compensation for each work day that a meal period was not lawfully provided in an amount to be proven at time of trial.

63. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512, and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal Break Subclass for unpaid wage premiums, penalties, costs, and interest.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS

(Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

(Plaintiff and the Rest Break Subclass Against All Defendants)

64. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

65. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

66. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its employees as mandated by Order of the Industrial Welfare Commission.

1 67. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
2 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
3 each work period. Employees shall receive a 10-minute rest period every four hours or major
4 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
5 hours worked, for which there shall be no deduction from wages.

6 68. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
7 Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay
8 at her regular rate of compensation for each day that the rest period is not provided.

9 69. At all relevant times, Defendants also failed to provide Plaintiff and the Rest
10 Break Subclass with 10 minutes of net rest break time for every 4 hours worked, or major
11 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the
12 Rest Break Subclass were often not authorized and/or permitted to take mandated rest breaks due
13 to being overwhelmed by their hectic workload. Additionally, Plaintiff and the Rest Break
14 Subclass were often not permitted to leave the premises for rest breaks, in violation of California
15 law. Furthermore, on occasions when Plaintiff and the Rest Break Subclass worked in excess of
16 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated rest break.

17 70. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
18 Order every pay period because Plaintiff and the Rest Break Subclass were not provided with all
19 mandatory rest periods and Defendants failed to pay Plaintiff and the Represented Employees
20 one additional hour of compensation in lieu thereof.

21 71. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest
22 Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated
23 rest periods, thereby receiving an economic benefit.

24 72. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks
25 as required by California law, and failing to pay one hour of additional wages in lieu of each rest
26 break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage
27 Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the
28 employee's regular rate of compensation for each workday that a paid rest break was not

1 lawfully provided in an amount to be proven at time of trial.

2 73. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
3 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest
4 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

5 **FIFTH CAUSE OF ACTION**

6 **FAILURE TO TIMELY PAY FINAL WAGES**

7 (Labor Code §§ 201 – 203)

8 *(Plaintiff and the Waiting Time Penalties Subclass against All Defendants)*

9 74. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
10 alleged herein.

11 75. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of
12 Defendants who did not receive proper protections and benefits of the laws governing the timing
13 and payment of wages.

14 76. Labor Code § 201 requires that the employer immediately pay any wages, without
15 abatement or reduction, to any employee who is discharged.

16 77. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
17 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
18 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

19 78. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
20 penalty from the due date thereof at the same rate until paid or until an action therefore is
21 commenced, but the wages shall not continue for more than thirty (30) days.

22 79. At all relevant times, Defendants employed a policy and practice whereby
23 Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon
24 separation of employment within the time required by Labor Code §§ 201 and 202.

25 80. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
26 wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of
27 employment, including, but not limited to, minimum, regular, and overtime wages, vested and
28 unused vacation/PTO wages, as well as meal and rest period premiums.

1 81. Plaintiff alleges that, at all times material to this action, Defendants had a planned
2 pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all
3 wages due and owing upon separation of employment as required by Labor Code §§ 201 and
4 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting
5 Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown
6 according to proof at trial and within the jurisdiction of this Court.

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

9 (Labor Code § 226)

10 *(Plaintiff and the Wage Statement Penalties Subclass against All Defendants)*

11 82. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 83. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
14 Defendants who did not receive proper protections and benefits of the laws governing the
15 provision of accurate itemized wage statements.

16 84. Labor Code § 226(a) requires an employer to provide its employees with itemized
17 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
18 inclusive dates of the pay period, the employee's name and the last four digits of his or her
19 Social Security number (or employee identification number), the name and address of the legal
20 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate by the employee.

22 85. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
23 and the Wage Statement Penalties Subclass because Defendants failed to provide a wage
24 statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
25 requirements of Labor Code § 226(a). Specifically, Defendants' wage statements failed to state
26 the overtime rate of pay, failed to state the applicable rate of pay for work at rates other than the
27 base rate (*e.g.*, there was no rate listed for the "field work" rate), and failed to state the start date
28 of the pay period. Additionally, the wage statements also failed to accurately state gross wages

1 earned, total hours worked, all deductions, and net wages earned.

2 86. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
3 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a
4 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
5 requirements of Labor Code § 226.2(a)(2).

6 87. Defendants' failure to provide the required writing deprived Plaintiff and the
7 Wage Statement Penalties Subclass of the ability to know, understand, and question the
8 calculation and rate of pay and hours used to calculate the wages paid by Defendants. Therefore,
9 Plaintiff and the Wage Statement Penalties Subclass had no way to dispute the resulting
10 miscalculation of wages, all of which resulted in an unjustified economic enrichment to said
11 Defendants. As a direct result, Plaintiff and the Wage Statement Penalties Subclass have suffered
12 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
13 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully
14 perform its obligation under state law, all to their respective damages in amounts according to
15 proof at trial.

16 88. As a result of Defendants' knowing and intentional failure to comply with Labor
17 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
18 that each was prevented from knowing, understanding and disputing the wage payments paid to
19 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
20 injury in that the failure to show all wages earned on the itemized wage statements resulted in
21 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
22 withholdings owed by the employer, including, but not limited to, the failure to make all
23 necessary contributions for unemployment benefits, social security benefits, proper payment of
24 taxes and withholdings, and other mandated state and federal benefits.

25 89. Plaintiff has also been injured as a result of having to bring this action to attempt
26 to obtain correct wage information following Defendants' refusal to comply with many of the
27 mandates of California's Labor Code and related laws and regulations.

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1 90. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
2 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
3 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
4 attorney's fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
5 injured by Defendants' failure to comply with Labor Code § 226(a). The exact amount of the
6 applicable penalty is all in an amount to be shown according to proof at trial.

7 **SEVENTH CAUSE OF ACTION**

8 **UNFAIR AND UNLAWFUL COMPETITION**

9 (Business and Professions Code § 17200 *et seq.*)

10 (*Plaintiff and the Represented Employees against All Defendants*)

11 91. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 92. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
14 competition, which includes any "unlawful, unfair or fraudulent business act or practice." The
15 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
16 due to the unfair and unlawful business practices of Defendants as alleged herein.

17 93. Defendants, and each of them, are "persons" as defined under Business &
18 Professions Code § 17021.

19 94. As alleged herein, Defendants engaged in conduct that violated California's wage
20 and hour laws, including failure to pay minimum, regular, overtime, and vacation/PTO wages,
21 failure to provide mandated meal periods and rest breaks, failure to reimburse business expenses,
22 and failure to timely pay final wages, all to decrease their costs and increase their profits.

23 95. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
24 Employees wages and monies and other financial obligations to which they were entitled.

25 96. As a result of Defendants' failure to comply with the Labor Code and IWC
26 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
27 an amount to be shown according to proof at trial. Defendants' ongoing violations of the
28 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

1 97. Defendants' violations of the California Labor Code and IWC Wage Orders and
2 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
3 practices because it was done in a systematic manner over a period of time to the detriment of the
4 Plaintiff and all others similarly-situated.

5 98. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
6 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
7 Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code
8 of Civil Procedure § 1021.5.

9 99. A violation of California Business & Professions Code § 17200, et seq. may be
10 predicated on the violation of any state or federal law. All of the acts described herein as
11 violations of, among other things, the California Labor Code and IWC Wage Orders, are
12 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
13 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
14 practices in violation of California Business and Professions Code §§ 17200, et seq.

15 100. Plaintiff, individually, and on behalf of the Represented Employees, has no plain,
16 speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a
17 consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of
18 the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually,
19 and on behalf of the Represented Employees, has suffered and will continue to suffer irreparable
20 harm unless Defendants, and each of them, are restrained from continuing to engage in said
21 unfair, unlawful and/or fraudulent business practices.

22 101. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
23 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
24 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the
25 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
26 Represented Employees are not obligated to establish individual knowledge of the unfair
27 practices of Defendants in order to recover restitution.

28 ///

1 102. Plaintiff, individually, and on behalf of the Represented Employees, is further
2 entitled to and do seek a declaration that the above described business practices are unfair,
3 unlawful and/or fraudulent, and injunctive relief restraining Defendants, and each of them, from
4 engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in
5 the future.

6 103. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
7 Represented Employees are entitled to restitution of the wages withheld and retained by
8 Defendants during a period that commences four years prior to the filing of this complaint; a
9 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
10 Represented Employees; an award of attorneys' fees pursuant to California Code of Civil
11 Procedure § 1021.5 and other applicable laws; and an award of costs.

12 **VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION**
13 **(Cal. Lab. Code. §§ 2698 – 2699.5)**

14 104. Plaintiff is an “aggrieved employee” under the PAGA as she was employed by
15 Defendants during the applicable statutory period and suffered one or more of the Labor Code
16 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
17 action filed on behalf of herself and all other similarly situated current and former aggrieved
18 employees in California against whom one or more of the alleged violations was committed
19 (hereinafter the “Aggrieved Employees”).

20 105. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
21 Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
22 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
23 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor
24 does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

25 106. Pursuant to Labor Code § 2699.3(a), on March 5, 2021, Plaintiff gave written
26 notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by
27 certified mail to Defendants of the specific provisions of the Labor Code alleged to have been
28 violated, including the facts and theories to support the alleged violations.

1 107. Therefore, once more than sixty-five (65) days have passed since the date of
2 notice, Plaintiff will have fully satisfied the administrative prerequisites to suit under the PAGA
3 and this Complaint will be deemed amended to include the PAGA allegations enumerated below.
4 Once this occurs, Plaintiff seeks to recover all applicable and available PAGA remedies pursuant
5 to Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by
6 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
7 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Plaintiff is not required to, nor does she, seek
8 class certification of the PAGA claims under Code of Civil Procedure § 382.

9 **EIGHTH CAUSE OF ACTION**

10 **PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES**

11 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

12 (*Plaintiff and the Aggrieved Employees against All Defendants*)

13 108. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
14 alleged herein.

15 109. Plaintiff and the Aggrieved Employees were not exempt from the requirement to
16 be paid at least the applicable California minimum wage throughout the statutory period for each
17 hour worked.

18 110. Plaintiff and the Aggrieved Employees were not provided proper minimum and
19 regular due to Defendants' failure to accurately record and compensate for all hours worked.

20 111. Consequently, Defendants violated California Labor Code laws and minimum
21 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
22 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

23 112. Plaintiff is informed and believes and thereon alleges that Defendants
24 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
25 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

26 113. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
27 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
28 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

NINTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

(Plaintiff and the Aggrieved Employees against All Defendants)

114. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

115. Plaintiff and the Aggrieved Employees were “nonexempt” employees of Defendants who did not receive proper protections and benefits of the laws governing payment of overtime wages.

116. Labor Code § 204 requires that the employer timely pay all overtime wages to its employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate of pay for an employee.

117. At all relevant times, Plaintiff and the Aggrieved Employees were required by Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to Defendants’ failure to accurately record and compensate for all hours worked, as well as the non-neutral rounding policy described herein, Plaintiff and the Aggrieved Employees did not receive proper overtime compensation.

118. Defendants also failed to properly calculate the regular rate of pay, and corresponding overtime rate and wages, on occasions that Plaintiff and the Aggrieved Employees earned multiple rates of pay during the same workweek. Therefore, Defendants failed to pay proper overtime compensation for hours worked in excess of 8 and/or 12 per day and/or 40 per week on such occasions.

119. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because Defendants failed to pay Plaintiff and the Aggrieved Employees for all overtime hours worked,

1 and required Plaintiff and the Aggrieved Employees to work without being properly
2 compensated for all overtime wages earned.

3 120. Plaintiff is informed and believes and thereon alleges that Defendants
4 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
5 Employees for each hour worked in violation of Labor Code §§ 204, 221-223, 510, 1194 and
6 1197.

7 121. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
8 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
9 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

10 **TENTH CAUSE OF ACTION**

11 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**

12 (Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

13 (*Plaintiff and the Aggrieved Employees against All Defendants*)

14 122. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
15 alleged herein.

16 123. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
17 who did not receive proper protections and benefits of the laws governing mandatory meal
18 periods.

19 124. Labor Code § 226.7 requires employers, including Defendants, to provide
20 employees with meal periods as mandated by the Industrial Welfare Commission.

21 125. Labor Code § 512(a), in part, provides that employers, including Defendants, may
22 not employ an employee for a work period of more than five hours per day without providing an
23 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
24 except that if the total work period per day of the employee is no more than six hours, the meal
25 period may be waived by mutual consent of both the employer and the employee. Employers
26 may not employ an employee for a work period more than 10 hours per day without providing
27 the employee with a second meal period of not less than 30 minutes.

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1 126. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
2 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
3 pay for each meal period that is missed.

4 127. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
5 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
6 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
7 they were: (1) unable to take meal periods due to workload, (2) forced to take on-duty meal
8 period while under the control of Defendants, (3) forced to take meal periods, if such a meal
9 occurred, after the 5th hour of work, and (4) not provided a mandated second meal period for
10 shifts in excess of 10 hours.

11 128. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
12 Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff
13 and the Aggrieved Employees were not provided with all mandatory meal periods and
14 Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of
15 compensation at the regular rate of pay in lieu thereof.

16 129. On information and belief, Plaintiff and the Aggrieved Employees did not
17 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
18 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
19 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
20 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved
21 Employees to take meal periods in accordance with California law.

22 130. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
23 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
24 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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ELEVENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS

(Labor Code § 226.7 and 512; IWC Wage Order § 12)

(Plaintiff and the Aggrieved Employees against All Defendants)

131. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

132. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

133. Labor Code § 226.7 requires employers, including Defendants, to provide rest breaks to its employees as mandated by Order of the Industrial Welfare Commission.

134. The IWC Wage Order § 12 states, in part, that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Employees shall receive a 10-minute rest period every four hours or major fraction thereof that they are required to work. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

135. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at her regular rate of compensation for each day that the rest period is not provided.

136. Defendants failed to provide Plaintiff and the Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked in excess of 10 hours in a shift, Defendants failed to authorize and/or permit a third mandated rest break.

137. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period with respect to Plaintiff and the Aggrieved Employees because Plaintiff and the Aggrieved Employees were not provided with all mandatory rest periods and Defendants

1 failed to pay Plaintiff and the Aggrieved Employees one additional hour of compensation in lieu
2 thereof.

3 138. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
4 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
5 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

6 **TWELFTH CAUSE OF ACTION**

7 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

8 (Labor Code § 204)

9 *(Plaintiff and the Aggrieved Employees against All Defendants)*

10 139. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
11 alleged herein.

12 140. Plaintiff and the Aggrieved Employees are and/or were "nonexempt" employees
13 of Defendants who did not receive proper protections and benefits of the laws regarding the
14 timing of payment of wages each period.

15 141. Labor Code § 204(a) states that all wages earned by a person are due and payable
16 twice during each calendar month, and further states that wages earned during the first through
17 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
18 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
19 the following month.

20 142. Furthermore, Labor Code § 204(d) states "[t]he requirements of this section shall
21 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
22 the wages are paid not more than seven calendar days following the close of the payroll period."

23 143. At all relevant times herein, Defendants did not provide Plaintiff and the
24 Aggrieved Employees with all wages due and owing each period within the time required by
25 Labor Code § 204. Moreover, Defendants did not provide Plaintiff and the Aggrieved
26 Employees with all wages due and owing each pay period, including, but not limited to,
27 minimum, regular, and overtime wages, as well as meal and rest period premiums, within the
28 time specified by Labor Code § 204.

1 144. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **THIRTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

6 (Labor Code §§ 201 – 203)

7 *(Plaintiff and the Aggrieved Employees against All Defendants)*

8 145. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
9 alleged herein.

10 146. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees
11 of Defendants who did not receive proper protections and benefits of the laws governing the
12 timing and payment of final wages.

13 147. Labor Code § 201 requires that the employer immediately pay any wages, without
14 abatement or reduction, to any employee who is discharged.

15 148. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
16 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
17 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

18 149. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
19 penalty from the due date thereof at the same rate until paid or until an action therefore is
20 commenced, but the wages shall not continue for more than thirty (30) days.

21 150. At all relevant times here, Defendants did not provide Plaintiff and the Aggrieved
22 Employees with all wages due and owing upon separation of employment, including, but not
23 limited to, minimum, regular, overtime, and vacation/PTO wages, as well as meal and rest period
24 premiums, within the time specified by Labor Code §§ 201 – 203.

25 151. Plaintiff alleges that, at all times material to this action, Defendants had a planned
26 pattern and practice of failing to timely pay to Plaintiff and the Aggrieved Employees all wages
27 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

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1 152. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **FOURTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR**
6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

7 (Labor Code § 226)

8 *(Plaintiff and the Aggrieved Employees against All Defendants)*

9 153. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
10 alleged herein.

11 154. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
12 who did not receive proper protections and benefits of the laws governing the provision of
13 accurate itemized wage statements.

14 155. Labor Code § 226(a) requires an employer to provide its employees with itemized
15 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
16 inclusive dates of the pay period, the employee's name and the last four digits of his or her
17 Social Security number (or employee identification number), the name and address of the legal
18 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee.

20 156. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
21 and the Aggrieved Employees because Defendants failed to provide a wage statement to Plaintiff
22 and the Aggrieved Employees that complied with the requirements of Labor Code § 226(a).
23 Specifically, Defendants' wage statements failed to state the overtime rate of pay, failed to state
24 the applicable rate of pay for work, and failed to state the start date of the pay period.
25 Additionally, the wage statements also failed to accurately state gross wages earned, total hours
26 worked, all deductions, and net wages earned.

27 157. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
28 to Plaintiff and the Aggrieved Employees because Defendants failed to provide complete and

1 accurate wage statements to Plaintiff and the Aggrieved Employees that complied with the
2 requirements of Labor Code § 226(a).

3 158. As a result of the Defendants' violations of Labor Code §226(a), Plaintiff seeks
4 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
5 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.
6 See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667, 675 ("Section
7 226.3 provides the civil penalty for failure to comply" with Labor Code § 226).

8 **FIFTEENTH CAUSE OF ACTION**

9 **PAGA ASSESSMENT FOR**

10 **FAILURE TO PROVIDE SAFE AND HEALTHFUL WORKING CONDITIONS**

11 (Labor Code § 6400-6403)

12 (*Plaintiff and the Aggrieved Employees against All Defendants*)

13 159. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully
14 alleged herein.

15 160. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
16 who did not receive proper protections and benefits of the laws governing workplace health and
17 safety.

18 161. Labor Code § 6400(a) requires "[e]very employer to furnish employment and a
19 place of employment that is safe and healthful for the employees therein. Labor Code § 6401
20 requires that "[e]very employer shall furnish and use safety devices and safeguards, and shall
21 adopt and use practices, means, methods, operations, and processes which are reasonably
22 adequate to render such employment and place of employment safe and healthful. Every
23 employer shall do every other thing reasonably necessary to protect the life, safety, and health of
24 employees." Labor Code § 6402 states that, "[n]o employer shall require, or permit any
25 employee to go or be in any employment or place of employment which is not safe and
26 healthful." Further, Labor Code § 6403 imposes a duty on employer, "(a) [t]o provide and use
27 safety devices, and safeguards reasonably adequate to render the employment and place of
28 employment safe; (b) [t]o adopt and use methods and processes reasonably adequate to render

the employment and place of employment safe; and (c) [t]o do every other thing reasonably necessary to protect the life, safety, and health of employees.”

162. Plaintiff alleges that at all relevant times, she and the Aggrieved Employees were not furnished safe and healthful place of employment and were not provided necessary safety devices to render the place of employment safe in accordance with Labor Code §§ 6400-6403.

163. As a result of the Defendants’ violations of Labor Code §§ 6400-6403, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, on a representative basis, and all others similarly situated, prays for judgment and relief against Defendants, jointly and severally, as follows:

1. As to the Eighth through Fifteenth Causes of Action, the assessment of all applicable and available remedies under the PAGA;
2. For reasonable attorneys’ fees and costs as permitted under the PAGA;
3. That the First through Seventh Causes of Action be certified as a class action;
4. That Plaintiff be appointed as Class Representative;
5. That counsel for Plaintiff be appointed Class Counsel;
6. For all applicable statutory penalties recoverable under the First through Seventh Causes of Action to the extent permitted by law, including those pursuant to Labor Code and Orders of the Industrial Welfare Commission;
7. For reasonable attorneys’ fees, costs of suit, and interest to the extent permitted by law, including those pursuant to the Labor Code;
8. For injunctive relief and/or restitution as provided by the Labor Code and Business and Professions Code § 17200, *et seq.*;

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9. For a declaratory judgment that Defendants have violated Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 558, 1194, and 2802, among other sections inadvertently omitted;

10. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, benefits, and penalties according to proof, including interest thereon;

11. For pre- and post-judgment interest; and

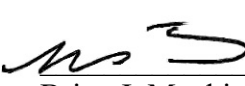
12. For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial as to the First through Fourteenth Causes of Action pled herein.

Dated: March 18, 2021

LAUBY, MANKIN & LAUBY LLP

BY:  
Brian J. Mankin, Esq.
Misty M. Lauby, Esq.
Attorneys for Plaintiff